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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 18, 2001

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS010280

Ex Parte: In the matter of  
Adopting Revisions to the Rules  
Governing Insurance Premium  
Finance Companies

ORDER TO TAKE NOTICE

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 390 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Insurance

Premium Finance Companies," which amend the rules at 14 VAC 5-390-20 through 14 VAC 5-390-40; and

WHEREAS, the Commission is of the opinion that the proposed revisions should be considered for adoption with a proposed effective date of February 1, 2002;

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Insurance Premium Finance Companies," which amend the rules at 14 VAC 5-390-20 through 14 VAC 5-390-40, be attached hereto and made a part hereof;

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before January 20, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS010280;

(3) If no written request for a hearing on the proposed revisions is filed on or before January 20, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance;

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission

to the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with a draft of the proposed revisions, to all persons licensed by the Commission to transact the business of an insurance premium finance company in the Commonwealth of Virginia and to all persons licensed by the Commission to transact the business of a property and casualty insurance company in the Commonwealth of Virginia; and by forwarding a copy of this Order, together with a draft of the proposed revisions, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

CHAPTER 390.

RULES GOVERNING INSURANCE PREMIUM FINANCE COMPANIES.

**14 VAC 5-390-20. Forms.**

A. Every insurance premium finance company shall prepare and file with the Commission for its approval the following forms:

1. Insurance Premium Finance Contract and any forms amending such contract;

~~2. Payment Book;~~

~~3. Notice of Overdue Payment or Intent to Cancel; and~~

~~4. Notice of Cancellation; and~~

~~5. Rate Chart or Charts.~~

~~All forms shall be printed in 10 point type or greater.~~

~~B. Every insurance premium finance company shall file with the Commission all other forms that it prepares for delivery or mailing to a customer or an insurer. This chapter shall not apply to correspondence except for form letters designed for repeated use.~~

~~C.~~ B. All forms used by the insurance premium finance company for delivery or mailing to a customer or an insurer shall be printed in eight-point type or greater and shall disclose:

1. The name of the licensee exactly as it appears on the license, provided that a licensee may

use a legally filed assumed or fictitious name. The licensee shall provide the Bureau of Insurance with proof that an assumed or fictitious name has been legally filed in the appropriate circuit court before the assumed or fictitious name may be used on an insurance premium finance contract;

2. The ~~street~~ address of the licensee, except that forms filed with the Commission pursuant to subsection A of this section shall include the street address; and

3. The telephone number of the licensee.

~~D~~C. Every form filed with the Commission shall be filed ~~with the Commission~~ in duplicate. If the form is approved, the Commission shall stamp both copies APPROVED with the date of approval. One copy, so stamped, will be returned to the licensee, and the other copy will be retained for the Commission's files.

~~E~~D. No licensee shall make use of any form required to be filed with the Commission that has not been given final approval pursuant to subsection ~~D~~C of this section. In no instance shall tentative approval of a form be deemed to constitute final approval.

~~F~~E. Under no circumstances shall any insurance premium finance contract provide for:

1. The financing of any additional premium under any insurance contract listed thereon without either the written consent of the insured or payment of the appropriate down payment by the insured, such consent being given or such down payment being made at the time such additional premium is financed;

2. The financing of notary public fees, fees for obtaining records of the Department of Motor Vehicles, motor club membership fees, or any other charges, costs, or fees other than premiums, taxes, or other fees relative to the policies of insurance.

**GF.** No licensee shall accept any form which is signed in blank or is lacking any information required by such form except that if the insurance policy has not been issued at the time the insured signs the agreement, the policy number may be left blank and inserted on a copy of the agreement after the insurance policy has been issued. In all cases, the name of the insurer, broker, or residual market facility must be shown. A legible copy of the insurance premium finance contract shall be delivered to each insured at the time the contract is signed.

**HG.** Any power of attorney authorizing a licensee to cancel an insurance policy shall appear on the face of the insurance premium finance contract.

**H.** All fees charged in connection with the financing of insurance policies shall be stated in the insurance premium finance contract.

#### **14 VAC 5-390-30. Records.**

A. If the licensee engages in any other business, the records relating to the insurance premium finance business shall be kept separate from the records of any other business.

B. Every insurance premium finance contract, all documents relating thereto, and copies of all documents delivered to an insured, shall be retained so as to be readily available for inspection at all reasonable hours during the term of the contract and for a period of ~~two~~ three years thereafter.

Such retention may be in an electronic format.

C. All records shall be maintained at ~~a single location~~ locations as designated in the application for license or at such other ~~single location~~ locations as the licensee shall designate by written notice to the Commission. Each licensee shall keep records for each insurance premium finance contract, other than those acquired as security for a debt, that shall include the following information:

1. Date of contract or of acquisition;
2. Name and address of insured;
3. Premium for each insurance policy financed;
4. Principal balance at acquisition;
5. Amount of service charge;
6. Time balance;
7. Total finance charge;
8. Annual percentage rate;
9. Number, interval and amount of payments;
10. Distribution of the proceeds showing the date, amount, purpose and name of all persons to whom any part of the proceeds was paid.

**14 VAC 5-390-40. Cancellation of insurance.**

A. No licensee shall cancel a policy of insurance unless the insurance premium finance contract contains an authorization for the licensee to cancel any insurance policy listed therein. Except as provided in subsection C of this section, no licensee shall cancel a policy of insurance for any default other than a default in the payment of money due the licensee or a default consisting of the transfer of the policy of insurance to a third party.

B. No notice of intent to cancel may be given prior to default in the insurance premium finance contract. ~~In no event shall the date of cancellation of any insurance policy be effective prior to 45 days following the days of execution of the insurance premium finance contract.~~ Prior to any cancellation, the licensee shall advise the insured and the agent ~~by mail~~ in writing of its intent to cancel insurance policies referred to in the notice, unless all payments in default are received within 10 days of the date the notice is mailed or delivered; or, if the default consists of a transfer of the policy, unless the transferee, within 10 days of the date the notice is mailed or delivered, assumes or discharges the transferor's debt to the licensee.

C. After providing the appropriate notice of intent to cancel, the licensee may exercise its right to cancel if the default has not been cured or if the additional premium has not been financed or otherwise paid. A copy of the notice of cancellation shall be mailed or delivered to the insured and insurance agent with an effective date of cancellation no earlier than five days after its mailing or delivery. No later than ~~five days after mailing a copy of the notice~~ the effective date of cancellation ~~to the insured and insurance agent~~, the licensee shall send the notice of cancellation to the insurer, provided the default remains uncured. If more than one insurance



policy is listed on an insurance premium finance contract, a licensee shall not cancel one insurance policy without cancelling all such policies listed thereon.

D. Every insurer, upon receipt of such notice, shall, subject to subsection E hereof, cancel such insurance policy or policies as of the date specified in such notice and shall promptly notify ~~by mail, in writing,~~ the insured, the insurance agent and the licensee of such cancellation. Such notification shall include but not be limited to the following information:

1. Insured's complete name;
2. Producer's name;
3. Policy number;
4. Effective date of the policy;
5. Effective date of cancellation;
6. Total policy premium;
7. Reason for cancellation.

No insurer shall cancel any insurance policy when notified by the licensee unless such insurer has received a copy of a power of attorney signed by the insured authorizing such cancellation.

No insurer shall require the return or surrender of the insurance policy as a prerequisite to such cancellation.

E. Notwithstanding the provisions of subsection D, where notice and a period of time is a prerequisite to cancellation under any statutory, regulatory, or contractual restriction, no insurance policy shall be cancelled until the required notice shall have been given by the insurer and the requisite period of time shall have elapsed, and the insurer shall then cancel the policy as soon as it legally may.

F. Except as provided in §38.2-1806 of the Code of Virginia, upon any cancellation whenever the insurer has received notice that the return premium has been assigned to a licensee, the insurer shall return any gross unearned premium to the licensee within ~~60~~ 30 days after the effective date of cancellation or within ~~60~~ 30 days after the completion of any audit whichever is later. If the amount returned is in excess of the amount due the licensee, the excess shall be remitted within 10 business days by the licensee to the insured.

No insurer or agent shall apply any return premium due as a result of a cancellation of a particular policy to any outstanding balance on another policy of the insured.

G. If a balance remains due to the licensee after cancellation of the insurance premium finance contract, such outstanding balance may earn interest at a rate no greater than the rate stated in the insurance premium finance contract.

~~G~~H. When there is more than one insured, all notices required hereunder shall be given to each insured, unless they reside at the same address.

~~H~~I. The provisions of this section hereof shall not apply to the financing of life insurance and annuity premiums by licensees.